

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

State of Texas, *et al.*,

Plaintiffs,

v.

United States Department of Homeland
Security, *et al.*,

Defendants.

CASE NO. 6:24-CV-306-JCB

JOINT NOTICE OF STIPULATIONS

The Court has consolidated resolution of preliminary relief with summary judgment and—if necessary to resolve factual disputes—a bench trial, all part of an omnibus hearing on November 5, 2024. *See* ECF No. 69 at 3. For the hearing, the Plaintiff States and the Federal Defendants (the “Parties”) adopt the following stipulations:

1. Unless good cause is shown, no evidentiary materials, including exhibits or declarations, shall be considered at the hearing unless
 - a. They were attached to the briefing to the omnibus motions filed on October 18, 2024, or to the responses to the other side’s omnibus motion due on October 25, 2024, and
 - b. Included in the final exhibit list exchanged pursuant to the provisions of ¶ 3 below, and filed with the Court on November 1, 2024.

This provision does not apply to any portion of the administrative record.

2. At the hearing, subject to the Parties’ prior stipulations on the scope of discovery (ECF No. 36), any Party may rely on any evidentiary materials, including exhibits and declarations, attached to their briefing and included on their final exhibit list. Any Party may also rely on any portion of the administrative record. Nothing in this Joint Notice of Stipulations waives any argument by any Party that certain evidence should be given no

weight or is inadmissible, including any argument that the Court may not consider any evidence outside the administrative record when evaluating the merits of Plaintiffs' claims.

3. The Parties will exchange exhibit lists on the following schedule:
 - a. October 28, 2024: The Parties exchange their exhibit lists.
 - b. October 31, 2024: The Parties exchange their objections to their opponent's exhibit list. If a Party has no objection to the admissibility of a certain exhibit, it should state so during this exchange.
 - c. November 1, 2024: Both Parties to finalize their exhibit lists, objections, and file with the same with the Court. If applicable, this finalized exhibit list will indicate any agreement between the Parties about the admissibility of exhibits.
4. The Parties agree that no live witnesses will be presented at the hearing. All witness testimony will be submitted through written declarations, which shall serve as the sole method of presenting witness evidence. These declarations shall be treated as direct testimony, and no in-person presentation by the declarants will be required. This stipulation covers all declarations included in the briefing and responses to the omnibus motions and included on the final exhibit list.

In addition, if the Court finds a bench trial necessary at that hearing, the Parties adopt the following stipulations:

1. The Parties agree that no live witnesses will be presented at any bench trial. All witness testimony will be submitted through written declarations, which shall serve as the sole method of presenting witness evidence. These declarations shall be treated as direct testimony, and no in-person presentation by the declarants will be required. This stipulation covers all declarations included in the briefing and responses to the omnibus motions and included on the final exhibit list.
2. The Parties agree that the evidentiary materials, including exhibits and declarations attached to their omnibus motions filed on October 18, 2024, and to their responses to the other side's omnibus motion due on October 25, 2024, are authentic and can be offered for

admission without a sponsoring witness.

3. Any declarations submitted by any Party as part of the evidentiary materials described above shall be treated as declarations in lieu of direct testimony rather than as exhibits.
4. Each Party may rely upon any declaration or other evidentiary material in support of its case regardless of which Party submitted the declaration or other evidentiary material.
5. Nothing in this Joint Notice of Stipulations prevents a Party from objecting to, or otherwise challenging, the admissibility, accuracy, or relevance of any fact or opinion contained in a declaration to the same extent that such objection or challenge would be appropriate if the declarant had offered the same testimony live in court.

Dated: October 25, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 25, 2024, I electronically filed this joint notice with the Clerk of the Court for the United States District Court for the Eastern District of Texas by using the CM/ECF system. Counsel in the case are registered CM/ECF users and service will be accomplished by the CM/ECF system.

/s/Ryan D. Walters

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